

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

DELBERT L. JOHNSON,	)	
	)	
Petitioner,	)	
	)	
vs.	)	NO. CIV-05-939-T
	)	
	)	
JOHN WHETSEL, SHERIFF,	)	
OKLAHOMA COUNTY,	)	
	)	
Respondent.	)	

ORDER

Petitioner, a pretrial detainee appearing *pro se*, brought this action for a writ of habeas corpus. In accordance with 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Valerie K. Couch for initial proceedings<sup>1</sup>. Pursuant to the Rules Governing Section 2254 Cases, the magistrate judge reviewed the petition upon filing. On September 14, 2005, the magistrate judge filed a Report and Recommendation [Doc. No. 6] in which she recommended that the action be summarily dismissed without prejudice to its refiling<sup>2</sup>.

In the Report and Recommendation, the magistrate judge advised petitioner of his right to object to same and scheduled an October 4, 2005 deadline for filing such objections. The magistrate judge also

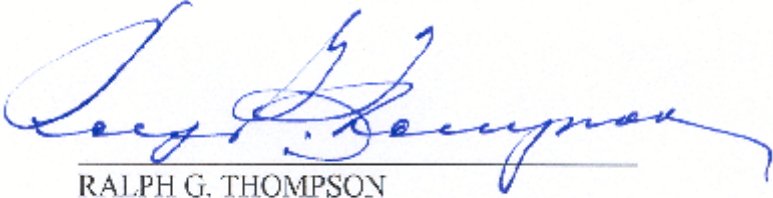
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<sup>1</sup>The case was originally assigned to the Honorable Lee R. West, but was later transferred to the undersigned and referred to Magistrate Judge Couch.

<sup>2</sup>The magistrate judge noted that, although the action was characterized by petitioner as brought pursuant to 28 U.S.C. § 2254, the relief sought by petitioner requires that it be construed as a 28 U.S.C. § 2241 action. The court agrees with her characterization, and thus treats the petition as arising under § 2241.

advised petitioner that a failure to timely object would constitute a waiver of his right to appellate review of the factual findings and legal conclusions contained in the Report and Recommendation. To date, petitioner has not filed an objection and has not sought an extension of time in which to do so. Inasmuch as petitioner has failed to object, the Report and Recommendation [Doc. No.6] is adopted as though fully set forth herein. Accordingly, this action is dismissed without prejudice to the filing of a new action.

IT IS SO ORDERED this 14<sup>th</sup> day of October, 2005.



RALPH G. THOMPSON  
UNITED STATES DISTRICT JUDGE

